

HEATHER E. WILLIAMS, CA Bar #122664
Federal Defender
KARA R. OTTERVANGER, CA Bar #354424
LISA N. LUMEYA, DC Bar #90017392
Assistant Federal Defenders
2300 Tulare Street, Suite 330
Fresno, CA 93721-2226
Telephone: (559) 487-5561
Fax: (559) 487-5950

Attorneys for Defendant
CHRISTOPHER DURELL

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHRISTOPHER DURELL,

Defendant.

Case No. 6:24-po-00490-HBK

UNOPPOSED MOTION TO MODIFY TO
STAY PROCEEDINGS PENDING
DISPOSITION OF RELATED CASE

Christopher Durell, by and through undersigned counsel, hereby moves for an order staying these proceedings pending the resolution of ongoing litigation in this Court which may be dispositive of the citation at issue. The government does not oppose this motion.

The alleged conduct underlying the citation at issue here involves BASE jumping. On July 15, 2024, Mr. Durell received a citation pursuant to 36 C.F.R. § 2.17(a)(3) which prohibits “[d]elivering or retrieving a person or object by . . . airborne means.” *Id.* The legality of this statute is the subject of ongoing litigation before this Court. That legal challenge arises from an identical citation in *United States v. Nunn*, No. 6:20-PO-00742-HBK, 2024 WL 814492, at *1 (E.D. Cal. Feb. 27, 2024). *See* Def.’s Mot. to Reconsider at 2, ECF No. 61, *United States v. Nunn*, No. 6:20-PO-00742-HBK (arguing the defense’s challenge to the BASE jumping ban in Yosemite National Park is timely). On September 16, 2024, Mr. Nunn filed a motion to reconsider,

requesting that this Court reconsider Mr. Nunn's Motion to Dismiss in light of the Supreme Court's ruling in *Corner Post Inc. v. Board of Governors of the Federal Reserve System*, 603 U.S. ___, 144 S. Ct. 2440 (2024). Def.'s Mot. To Reconsider at 2, ECF No. 61, *United States v. Nunn*, No. 6:20-PO-00742-HBK. According to the current briefing schedule, this Court has ordered the government to file its response by November 15, 2024; and the defense to file any reply by December 6, 2024. ECF No. 63, *United States v. Nunn*, No. 6:20-PO-00742-HBK.

Due to the potential that the *Nunn* ruling may be dispositive in this matter, Mr. Durell respectfully requests that the Court stay proceedings in the instant case pending the disposition of the *Nunn* case. The issuance of a stay in this matter is consistent with this Court's practices¹ and would also promote judicial efficiency.

DATED: October 24, 2024

Respectfully submitted,

HEATHER E. WILLIAMS
Federal Defender

/s/ Kara R. Ottervanger
Kara R. Ottervanger
Assistant Federal Defender

/s/ Lisa Ndembu Lumeya
Lisa N. Lumeya
Assistant Federal Defender

¹ See *United States v. Madl* 6:20-mj-00015, ECF No. 9 (staying proceedings in a BASE jumping case pending resolution in *Nunn*); *United States v. Brokemon*, 6:21-po-00150, ECF No. 5 (same); *United States v. Hennage*, 6:21-po-00162, ECF No. 5 (same).